

# **Exhibit D**

U.S. Department of Homeland Security  
800 N. Capitol St., NW STOP 5009  
Washington, DC 20536-5009



U.S. Immigration  
and Customs  
Enforcement

September 23, 2011

BRIAN YOURISH  
LEGAL ACTION CENTER  
AMERICAN IMMIGRATION COUNCIL  
1331 G ST. NW SUITE 200  
WASHINGTON, DC 20005

RE: OPLA11-256; 2011FOIA7112

Dear Mr. Yourish:

This is in response to your letter dated August 11, 2011 appealing the constructive denial of your Freedom of Information Act (FOIA) request by U.S. Immigration & Customs Enforcement (ICE). Your initial request asked for any and all agency records concerning "attorneys' ability to be present during their clients' interactions with ICE; what role attorneys may play during their clients' interactions with ICE; attorney conduct during interactions with ICE on behalf of their clients; and attorney appearances at ICE Offices or other facilities." You have appealed the constructive denial of this claim based upon ICE FOIA's failure to provide you with a response to your FOIA request within the twenty (20) days provided by statute.

ICE FOIA subsequently has tasked the Office of the Principal Legal Advisor (OPLA), the Office of Enforcement and Removal Operations (ERO), and Homeland Security Investigations (HSI), to conduct searches responsive to your request. Your request is currently being processed in the order it was received, and documents, if they exist, will be processed according to the FOIA upon receipt from the program office. Accordingly, we are administratively closing your appeal as moot.

This decision is the final action of the Department of Homeland Security concerning your FOIA/PA request. Inasmuch as you consider this to be a denial of your appeal, you may obtain judicial review of this decision pursuant to the provisions of 5 U.S.C. § 552(a)(4)(B) in the United States District Court in the district in which you reside, or in which the agency records are situated, or in the District of Columbia.

The Office of Government Information Services (OGIS) also mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. If you wish to contact OGIS, you may email them at [ogis@nara.gov](mailto:ogis@nara.gov) or call 1-877-684-6448.

[www.ice.gov](http://www.ice.gov)

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Should you have any questions regarding this appeal closure, please contact ICE at [ice-foia@dhs.gov](mailto:ice-foia@dhs.gov). In the subject line of the email please include the word "appeal", your appeal number, which is OPLA11-256, and the FOIA case number, which is 2011FOIA7112.

Sincerely,

A handwritten signature in black ink, appearing to read 'S Mathias', with a stylized flourish at the end.

Susan Mathias

Chief

Government Information Law Division

ICE Office of the Principal Legal Advisor

Department of Homeland Security